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Beta Steel Corporation *and* **Dennis Holland.** Case 25–CA–25139–S

June 6, 2001

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN HURTGEN AND MEMBERS LIEBMAN AND TRUESDALE

On September 30, 1998, the National Labor Relations Board issued a Decision and Order, ¹ inter alia, ordering Beta Steel Corporation, the Respondent, to make whole employee Dennis Holland for any loss of earnings and other benefits suffered as a result of his discharge in violation of the National Labor Relations Act. On March 14, 2000, the United States Court of Appeals for the Seventh Circuit enforced the Board's Order.²

A controversy having arisen over the amount of backpay due the discriminatee, on July 27, 2000, the Regional Director for Region 25 issued a compliance specification and notice of hearing identifying the amounts of backpay due under the Board's Order, and notifying the Respondent that it must file a timely answer complying with the Board's Rules and Regulations. The Respondent subsequently filed an answer to the compliance specification.

By a letter dated October 3, 2000, the Region notified the Respondent that its answer was inadequate and that if it failed to correct the deficiencies by October 17, 2000, the Region would move for summary judgment. The Respondent failed to amend its answer.

On November 20, 2000, the General Counsel filed with the Board a Motion for Partial Summary Judgment, with exhibits attached. On November 21, 2000, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's motion should not be granted. The Respondent failed to file a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record, the Board makes the following

Ruling on Motion for Partial Summary Judgment

Section 102.56(b) and (c) of the National Labor Relations Board's Rules and Regulations states, in pertinent part:

(b) Contents of answer to specification. The answer shall specifically admit, deny, or explain each and every allegation of the specification, unless the

respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification at issue. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the specification or the premises on which they are based, the answer shall specifically state the basis for such disagreement, setting forth in detail the respondent's position as to the applicable premises and furnis hing the appropriate supporting figures.

(c) Effect of failure to answer or to plead specifically and in detail to backpay allegations of specification. If the respondent files an answer to the specification but fails to deny any allegation of the specification in the manner required by paragraph (b) of this section, and the failure so to deny is not adequately explained, such allegation shall be deemed to be admitted to be true, and may be so found by the Board without the taking of evidence supporting such allegation, and the respondent shall be precluded from introducing any evidence controverting the allegation.

In its answer to the Regional Director's compliance specification, the Respondent has offered general denials to the General Counsel's allegations in paragraph 2, which pertains to the backpay period, and the allegations in paragraph 6 and the summary paragraph, which pertain to the amount of backpay due the Charging Party. The General Counsel contends that such general denials do not comply with the requirements of section 102.56(b) and (c). We agree.

It is established Board law that a general denial of allegations regarding the backpay period and gross backpay calculations is insufficient to comply with the specificity requirements of section 102.56(b) and (c). *United States Service Industries*, 325 NLRB 485 (1998). Because the Respondent failed to furnish supporting figures or fully set forth its position regarding the applicable premises as required by section 102.56(b) and (c), we find the Respondent's answer to be inadequate under that section. Accordingly, we grant the General Counsel's motion and deem that the allegations in paragraphs 2, 6, and the summary paragraph of the compliance specification are admitted as true, and the Respondent is precluded from introducing any evidence challenging them.

¹ 326 NLRB 1267 (1998).

² Beta Steel Corp. v. NLRB, 210 F. 3d 374 (7th Cir. 2000).

ORDER

It is ordered that the General Counsel's Motion for Partial Summary Judgment is granted as to paragraphs 2, 6, and the summary paragraph, and that those allegations are deemed to be true.

IT IS FURTHER ORDERED that this proceeding is remanded to the Regional Director for Region 25 for the purpose of arranging a hearing before an administrative law judge limited to the issues of interim earnings and expenses, vacation benefits, medical benefits, 401(k) benefits, and the Respondent's affirmative defenses.

Dated, Washington, D.C. June 6, 2001

Peter J. Hurtgen,	Chairman
Wilma B. Liebman,	Member
John C. Truesdale,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD